



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

EO-807

Office of Economics, Environmental Analysis and Administration

February 28, 2008

Eric M. Hocky
Thorp Reed & Armstrong, LLP
2005 Market Street
Suite 1910
Philadelphia, PA 19103

Re: Finance Docket No. 35061, Liberty County Rural Rail Transportation
District No. 1 – Construction and Operation Exemption – in Liberty
County, Texas; Grant of EIS Waiver Request

Dear Mr. Hocky:

Thank you for your February 8, 2008 letter regarding the proposed construction and operation of the Liberty County Rural Rail Transportation District No. 1 (applicant) in Liberty County, Texas. The rail line would extend approximately 32 miles between Dayton and Cleveland, TX, and would be maintained and operated by an experienced short line railroad. The purpose of the new line would be to relieve congestion in the Houston area and spur economic development in Liberty County. The applicant anticipates rail operations to consist of 10 to 12 trains of approximately 100-150 rail cars per day that would handle mixed merchandise.

In your letter, you provide information about the level of potential environmental impacts that may be associated with the proposed construction and operation and request a waiver of the preparation of an Environmental Impact Statement (EIS). Pursuant to 49 CFR 1105.6(d), the Board's Section of Environmental Analysis (SEA) is granting your request for a waiver of 49 CFR 1105.6(a), which normally provides for the preparation of an EIS for rail line construction proposals.

At this time, based on the information available to date, we believe that the environmental impacts of this project would not be significant, and any impacts can most likely be addressed through appropriate mitigation measures. Therefore, we have determined that an Environmental Assessment (EA) is appropriate in this case for the following reasons:

- On December 18, 2007, Danielle Gosselin of my staff and Jacobs Carter Burgess, the approved independent third party consultant that is assisting SEA in the environmental analysis, visited the project site and concluded that there do not appear to be significant

environmental issues related to this project.

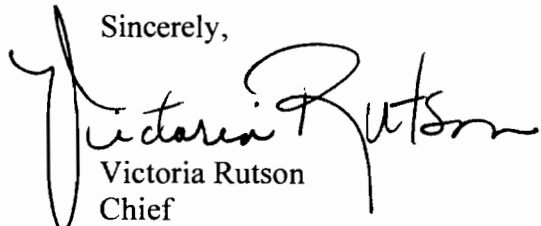
- Land use in the immediate vicinity of the project is largely agricultural, and the proposed rail alignment parallels an existing pipeline easement in order to minimize any affect on landowners.
- Grade separations are planned for three crossings, and applicant would install any necessary protection at the at-grade crossings as part of the project. The new rail line is expected to enhance safety by eliminating a hairpin at-grade crossing just west of Dayton.
- The proposed project is expected to divert traffic from the congested rail routes through Houston. The Federal Railroad Administration indicated that the project will be beneficial to the extent that it takes train traffic out of the congested Houston area. Overall, there should not be a substantial increase in train traffic, and no diversions from rail to truck are anticipated. The Houston-Galveston Area Council stated that the proposed project would have positive air quality benefits by reducing rail and automobile congestion in the Dayton/Liberty area.
- SEA is in the process of coordinating with the US Army Corps of Engineers (Corps) to address jurisdictional issues and/or Clean Water Act permit requirements. Applicant will pursue and secure any necessary permits required by the Corps or the Liberty County Floodplain Administrators.
- There are no wildlife sanctuaries or refuges, national or state parks, or forests that would be affected by the proposed action. Two Federally-listed endangered or threatened species are known to occur in the project area. The area is not listed as a critical habitat for any wildlife species. The Texas Parks and Wildlife Department indicated that no threatened or endangered species have been recorded within 1.5 miles of the proposed alignment. To the extent that any sensitive species would be adversely affected by the proposed action, mitigation measures will be developed in coordination with the U.S. Fish and Wildlife Service and the Texas Parks and Wildlife Department.
- The Texas Historical Commission, State Historic Preservation Officer indicated that no recorded historic properties were noted along the proposed alignment. No historic structures or other potential historic or archeological resources were observed during the site visit.
- The U.S. Department of Housing and Urban Development identified three housing projects located within three miles of the proposed rail line but stated that it does not expect these properties to be affected by the project. Applicant will analyze noise and vibration impacts during the EA preparation process, and mitigation measures will be developed if necessary.
- The Texas General Land Office indicated that four active underground pipeline easements could be affected by the proposed rail line. Applicant states that any

underground petroleum pipelines or major transmission lines crossed by the new track would be protected in accordance with industry standards. No evidence of hazardous material contamination was observed during the site visit. Applicant states that additional research will be conducted in accordance with ASTM Standards to determine the potential for contaminated media (soil/groundwater) in the project area.

After the EA is prepared, SEA will make the document available for public review and comment. Once the comment period is concluded, SEA will prepare a Post EA discussing the comments received and including any appropriate modifications to its existing analysis or additional analysis. The Post EA will also set forth SEA's final recommended mitigation measures for the Board. The Board will then consider the EA, the public comments, and SEA's Post EA recommendations before making its final decision in this proceeding. However, should the EA process disclose unanticipated impacts that are significant, we will require the preparation of an EIS at that time.

If we can be of further assistance, please do not hesitate to contact me or Danielle Gosselin at (202) 245-0300.

Sincerely,



Victoria Rutson
Chief
Section of Environmental Analysis

cc: Sandy Wesch-Schulze